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Via ECF

January 8, 2019

Honorable Analisa Torres, U.S.D.J.  
United States District Court  
for the Southern District of New York  
Daniel Moynihan U.S. Courthouse  
500 Pearl Street  
New York, NY 10007-1312

***Re: NLRB v. R&S Waste Services, LLC et al.***  
***Misc. No. 18-MC-596 (AT)***

Dear Judge Torres:

This firm represents the Defendants in the above-referenced matter. We write in response to the Court's order today permitting the National Labor Relations Board's ("NLRB") to file a letter not exceeding five pages by January 10, 2019. Defendants request the same right to provide a reply to the NLRB's submission yesterday.

The basis for the NLRB's request for additional argument underscores the illegitimacy of the initiation of the instant matter. It is clear from the NLRB's initial filing, its submission yesterday and its stated basis for submitting more argument that the NLRB filed its *ex parte* and under seal application lacking knowledge of key facts that would have otherwise defeated its ability to obtain the relief sought. The negative implication of that absence of knowledge is compounded by the fact that the NLRB omitted key information such as R & S Waste Services LLC's efforts to comply with the NLRB's April 8, 2015 Decision & Order in late 2016 and early 2017. The NLRB still has no credible explanation for failing to inform the Court of those efforts or why it never provided R & S Waste Services LLC a response to its computation of backpay since it was provided almost two years ago.

The NLRB has also failed to provide a credible reason why it never sought to compel Rogan Brothers Sanitation, Inc. or other entities owned by James Rogan, e.g. ARJR Trucking Corp., (the NLRB still has taken no action against ARJR Trucking Corp.) to remedy the unfair labor practices of "Rogan I" at any time from 2012 through the present either by the issuance of

a Compliance Specification and Notice of Hearing or, like here, an *ex parte* and under seal application for a pre-judgment writ of attachment.

Finally, as set forth in Defendants' submission yesterday there is no reasonable cause to believe assets are being dissipated; a reality that is affirmed by the NLRB's clear absence of knowledge of key facts and its omission of critical points along the historical timeline. In fact, the "evidence" it relies upon was obtained only after it secured the writ – establishing the illegitimacy of the initial application.

The ability to further discount the NLRB's "evidence" set forth in its submission yesterday and to correct the NLRB's misunderstanding of Judge Carter's decision in 12-cv-6249 will further enable the Court to understand the groundless basis for maintaining the writ. Defendants request the same right accorded to the NLRB.

Respectfully,

Michael J. Mauro, Esq.

Cc: Counsel of record